App. F. IX-4

Previous References

1932
(Loan)

File No. 152-32

Serial Nos. 1-2

Later References

Revenue

PRESERVED

(14)

General and Revenue Secretariat.

Serial Nos. ~~2~~ 1-2

Part B for May 1933

SUBJECT.

Legal opinion regarding the claim of the Srikakulam for 30 bags of Loor Dhal invoice no 27 of 29.12.30 Ex-Poona to Shimoga

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Rep 6180 of 30-5-33

To the Traffic Manager through the Agent Mysore Railways.

Herewith is a copy of the legal opinion in the matter

M. Iyengar
12/7/33

4940/1932

MRM T 858—2000—2-4.32

MYSORE RAILWAYS

T. 34 A.

No. C.F. 78/31.

TRAFFIC MANAGER'S OFFICE,

Mysore, 6th March 1933.

Law 155-32-4

To
The General Secretary
to the Government of H.H. The Maharaja of Mysore,
(Law Department), General & Revenue Secretariat,
Bangalore.

Through the Agent Mysore Rly Mysore

Dear Sir,

7866 GENERAL BRANCH 13 MAR 33 PAID No Law

Re. 30 bags toor dhall. Inv. No. 27 of 29/12/1930 ex Poona to Shimoga Town.

I beg to state that the consignment under reference under a misapprehension was delivered to a different party without the collection of the Railway Receipt by the then General Clerk at Shimoga Town. The real consignee after some days produced the Railway Receipt and claimed delivery. The General Clerk then knowing his mistake recovered the bags from the wrongful party and offered the same to the consignee. The consignee seeing that the bags had been mis-delivered thought that the contents must have been substituted and the quality differed, refused delivery of the goods. The goods were disposed of by the Railway to avoid deterioration. The consignee lodged a criminal complaint against the then General Clerk, Shimoga Town, and the case is proceeding.

2) The consignee after sometime, preferred a claim on this Railway for the goods and claimed Rs 565/- as detailed below:-

Rs 375-8-0	Cost of the goods.
Rs 30-0-0	Profit.
Rs 59-8-0	Travelling expenses.
Rs 100-0-0	Fees paid to Lawyer.

The consignee was offered so far back as 8/6/1931 the actual cost of the goods and not the other expenses referred to by him and was asked to surrender the original Railway Receipt with him for the settlement of his claim. He prolonged the correspondence till now stating that the original Railway Receipt was in possession of the Court in connection with the criminal complaint lodged by him and he has now sent an authenticated copy of the Railway Receipt which is endorsed in his favour and presses settlement of his claim for Rs 565/- as originally claimed.

P.T.O

P T O

I shall be very much obliged if you will very kindly let me know if in case the party files a suit for the profit, legal expenses &c., claimed by him and which the Railway proposes not to pay, his suit would not be barred by limitation.

A very early reply is requested on the matter.

Yours faithfully,

Ag. Traffic Manager.

Forwarded

TYPING SECTION
15. MAR. 1933
P.E. SECTION

Issued as P. Sooq of 16.3.33

General and Revenue Secretariat | Law File No. of 1932. | [App. F. III—2

Serial No.

From,

The Tr. Manager, M/s. B/S
No. C.B. 78/31 dated 18th April 1932 — forwarding
the Connected papers relating to the claim.

1) Facts of the Case are explained in the Tr. Manager's letter dated 6th March 1933. The Consignee was offered the actual Cost of the goods on 8.6.31. The Correspondence between the Tr. manager and the party is since then going on; the date of the last letter addressed being 6th March 1933. The anticipated Suit does not seem to be barred by limitation. This seems to be a fit Case for Compromise.

Submit for orders.

ISD 24/4 MSK

3) Please find from the Quarterly Statements sent by the Shimoga Agt. at what stage the C.C. 187 of 30-31 on the file of Asst Traffic Agt Shimoga is?

MSK
27.4.33.

4) C.C. 187/30-31 is not traceable in the Q's sh's received from the Agt. Shimoga.

ISD 27/4 MSK

5) In the Traffic manager's letter of 6th March, it is said that the Case is still proceeding. In the letter of 7th Jan 1933 addressed to Mr N. Srikantia, the F.M. refers to a Suit copy sent by him.

NOTE—Contd. Sheet.

4 5590

File No. of 193 . | General and Revenue Secretariat

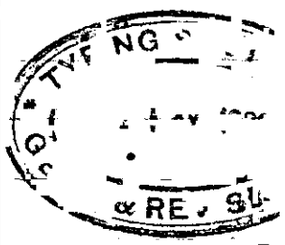
6

b) Please enquire the D.M whether the case has not been disposed of & if so please ask him to send a copy of the Judgt for reference.

DMP
29/4/33

7) Dft for 4 accordingly
ISD 1/5 MBK

Issue
DMP
1/5



To,

The Tr. Manager

no. P. 5688 dt 3.5.33 Calling for a Copy of the Judgment in the Cr. case lodged by the Consignee.

Sir,

The Tr. Manager

no. C.J. 75/31 dt 5.5.33 intimating that Copy of the Judgment is not available and that the General Clerk has preferred an appeal against the order of the lower Court.

8) If approved the Tr manager will be required to obtain and send a Copy of the Judgment for reference.
ISD 9/5 MBK for orders.

Sec. A
5/5/33

Serial No.

The relevant facts of the case are as follows:—

9) Some 30 bags of Atta were sent from Poona as per Invoice no: 27 of 29-12-1930 to Shimoga. The consignment was ready for delivery at Shimoga on 6-1-31. The consignee did not take delivery till about the 14th Jan or so, when he refused to take delivery as he suspected the foods to have been exchanged. What actually happened seems to have been that the foods clerk whether knowingly or not, delivered the foods to a wrong person and had them replaced afterwards.

10) The consignee after repeated requests to the Traffic Department to take action against the foods clerk, finally launched a Criminal case against him and since it is reported that the clerk has now appealed from the judgment in the lower court, it has to be inferred that he has been found guilty—

11) On 21st Feb 1931, the Traffic Manager wrote to the consignee Mr. Srikantia to send the Railway receipt to enable him to settle the claim by payment of the cost of the consignment—In his letter of 28th Feb, Mr Srikantia claimed Rs 375-8-0 for cost of the consignment and Rs 189-8-0 being profit + other expenses incurred by him—The Railways in their letter of 7-3-31 ~~agreed~~ informed Mr: Srikantia

NOTE—Contn. Sheet.

that the bags would be sold and that cost of the consignment would be remitted to him on his sending the R/R. They refused the claim for incidental charges etc -

2) On 27th April 1931, the bags were sold and a sum of Rs 210/- was realised - A Lawyer's notice was issued by Mr. Srikantia Claiming Rs 565/- on 27 May 1931. On 8/6/31 a reply was sent to this notice saying that the claim as per sender's letter was only Rs 350/- and asking for details of the excess claimed - On 26th Jan 1932 again the Traffic Manager has agreed to pay the actual cost of the foods - Even on 6th March 1933 enquiry is made whether the amount may be paid to Mr. Srikantia -

3) Under article 31 of the Limitation Act, the usual period within which a Suit for compensation for non-delivery against the Railway can be filed is one year from the date the foods had to be delivered - But if the Railway has disposed of the foods under powers vested under Rule 68 of the Act, a Suit for recovery of the Surplus Sale proceeds can be filed within 3 years under art 62 (1921 Mad 362). Legally therefore the only claim which is within time is for the Surplus sale proceeds, but in the peculiar circumstances of this case, it is desirable to admit the claim for the

5805 7

General and Revenue Secretariat — Law File No. 153 of 1932. — [App. F. III—2

Serial No.

actual cost of the consignment, viz Rs 350/-. The other expenses claimed are in the nature of compensation, and a suit in respect of which is clearly barred, let alone the merits of the claim —

Please put up a draft accordingly

mp 12/5/33

Draft put up for approval

BD 12/5

(Jen Seq)

mp 13/5/33

I Member

Ltr 23/5

mp 23/5

Ltr 25/5

Issue mp 25/5

To,

The Tr. Manager

no. P. 6150 dt 30.5.33 enclosing a copy of the legal opinion in the matter for necessary action

RECD 13 MAY 1933 No

OF THE COUNCIL 23 MAY 1933 No. 9213

TYPING SECTT. 25 MAY 1933 GENL. & REV. SECTT.

B 31/5/33 1/6

NOTE—Contn. Sheet.

8/

No P. 5009

15th March 1933.

16

The

The Traffic Manager,
Mysore Railways, Mysore,
THROUGH the Agent, Mysore Railways, Mysore.

With reference to your letter No.C.F.78/31 dated 6th March 1933, soliciting legal opinion in the matter of 30 bags of toor Dhall, invoice No.27 of 29th December 1930. Ex. Poona to Shimoga, I am directed to request that the connected papers may kindly be sent for reference and return.

I have the honour to be,
S,i r,
Your most obedient servant,

Done

For General Secretary to Government.

ISP

K.M.R.2/15-3.

Appendix F G—1]

SUBJECT .....

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Section

File No.

Serial No.

Diary No. of letter replied to .....

No. P - 5009/-

To The Tr. Manager. Mys. Rys.
Thro' the Agent Mys. Rys.

General and Revenue Secretariat

( )

the *193* .

Sir,

Date of issue 16/3/33

With reference to your letter no. C.T. 76/31 dated 6th March 1933 soliciting legal opinion in the matter of 30 bags of toor dhall. inv. no. 27 of 29.12.30. Ex: Poona to Shimoga I am directed to request that the connected papers may kindly be sent for reference and return

Signed by Jan M Rajarao

List of enclosures.....

I have seen
ME
14/3 for Gen Secy

Copied by 14/3/33

JSD
14/3

Examined by.....

4940

MRM T 165-2000-4 1-38

5590 P.

T. 34 A

MYSORE RAILWAYS

TRAFFIC MANAGER'S OFFICE,

No. C.F. 78/31.

Mysore, 18th April *193* 3

To

The General Secretary
to the Government of H.H. The Maharaja of Mysore,
Law Department,
General & Revenue Secretariat,
Bangalore.

OFFICE OF THE AGENT. APR 19 1933 10166 MYSORE RAILWAYS

Through
The Agent,
Mysore Railways,
Mysore.

Dear Sir,

Re. 30 bags toor dhall. Invoice No. 27
of 29/12/1930 ex Poona to Shimoga Town.

Your No. P. 5009 dated 15/16th March 1933.

With reference to your letter, I send you herein enclosed the connected papers relating to the subject and request you to kindly favour me with your opinion on the matter as per this office letter dated 6th March 1933. The connected papers may kindly be returned to this office after done with to enable me to dispose of the claim finally.

Yours faithfully,

Traffic Manager.

GENERAL SECRETARIAT 24 APR 1933 Law No.

(Enc. 1 file containing 64 folios.)

Rt: no: 10166
18.4.33

Passed on with compliments.

Agent,
Mysore Railways.

21-4-33.

Appendix F G—1]

SUBJECT .....

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Section

File No.

Serial No.

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

th *193* .

Date of issue B-5-33

Signed by Mr N.R.G

List of enclosures.....

Copied by WJS

Examined by.....

No. D5683

To The Traffic Manager.
Thro' the Agent Mys. Rys.

Sir,

In acknowledging the receipt of ~~the receipt of~~ the ~~Comment~~ records relating to ~~Case~~ the claim of M. Sivakantia ~~vs~~ re: 30 bags of toor Dhal Invoice no. 27 of 29.12.30 Ex: Poona to Shimoga, sent with your letter no. C.M. 7. 78/31 dated 18th April 1933, I am directed to enquire whether the Criminal Complaint ~~launched~~ lodged by the Consignee against the Goods clerk, Shimoga, has been disposed of: if so a copy of the Judgment may kindly be sent for reference and return.

I have etc

WD 0253—GPB—15,000—26-8-32

ISD 1/5

WJS 1/5 for Secretary

MRM T 165-2000-6 1-33

5760S 12

T. 34 A.

MYSORE RAILWAYS

TRAFFIC MANAGER'S OFFICE,

No. C.F. 78/31.

Mysore, 5th May *193* 3

To

The General Secretary
to the Government of H.H. The Maharaja of Mysore,
Law Department,
General & Revenue ~~Depts~~ Secretariat,
Bangalore.

Through
The Agent,
Mysore Railways,
Mysore.

Dear Sir,

GENERAL SECRETARIAT
8 MAY 1933
No. Law

Your letter No. P. 5683 dated ~~1~~ 3rd May 1933.
Re. 30 bags toor dhall. Invoice No. 27 of 29/12/1930
ex Poona to Shimoga Town.

With reference to your letter, I beg to state that the General Clerk has preferred an appeal against the order of the lower Court and the same has not as yet been disposed of. The judgment copy is not with us.

Yours faithfully,

Traffic Manager.

Appendix F G—1]

SUBJECT.....

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Section Law

File No. 155-32
13

Serial No. 2

Diary No. of letter replied to.....

No. P 6180/Exc 1 file of Rec & a copy of opin

To

The Tr. manager thro'
the Agent Nyk. Rys.

General and Revenue Secretariat

( )

the *193* .

Sir,

Date of issue 30/5/32

I with reference to the Correspondence ending with your letter no. C.T. 75/31 dated 5th May 1933 re: the claim of Mr. Sukhanraja for 30 bags toor dhal invoice no. 27 of 29.12.30. Exp. Bona to Shimoga. I am directed to enclose herewith a Copy of the legal opinion in the matter and to request that further action may kindly be taken accordingly.

Signed by

for q-13 of the rules.

List of enclosures.....

Copied by W. 2/5

The entire file of records received with your letter no. C.T. 75/31 dated 15.11.33 is returned herewith.

Examined by .....

WD 0253—GPB—15,000—26-8-32

I have exc
12/5
for Genl Secy

150/15.

16

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P 6180 Eee Law 155-32-2 — 30

Dated, Bangalore, 29th May 1933

From

The *General Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The Traffic Manager,

Through the Agent, Mysore Railway, Mysore.

Sir,

With reference to the correspondence ending with your lett No.C.F.78/31 dated 5th May 1933 re: the claim of Mr.Srikantaiya f 30 bags toor Dhal Invoice No.27 of 29th December 1930. Ex: Poona to Shimoga, I am directed to enclose herewith a copy of the legal opinion in the matter and to request that further action may kind be taken accordingly.

The entire file of records received with your letter No. C.F.78/31 dated 18th April 1933 is returned herewith.

I have the honour to be,

Sir,

Your most obedient servant,

For General Secretary to Government.

mk.2